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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the report of the Government of the Republic of Hungary in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

National report of the Republic of Hungary on the implementation of UNSCR 1540

1. The unanimous adoption of Security Council Resolution 1540 (2004) on 28 April 2004 was an historic event. This was the first Security Council resolution to address the threat that proliferation of weapons of mass destruction and their means of delivery, in particular by non-state actors, poses to international peace and security.

2. The Republic of Hungary has already taken a range of legislative and executive measures that ensure compliance with UNSCR 1540. Hungary continuously reviews its policies, with a view to establishing what further measures may be necessary.

3. The Republic of Hungary is also fully committed to the work of the 1540 Committee in ensuring global implementation of this resolution, including – where appropriate – through providing assistance or advice to others.

4. As the Republic of Hungary is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Legislative action

5. The Republic of Hungary has a wide range of legislative measures in place to prevent the proliferation of WMD, including by non-state actors. The centrepieces of this legislative framework are Law-Decree 12/1970 on NPT, Government Decree 11/1975 on BTWC, Government Decree 104/1997 on CWC, Government Decree 16/2004 on the licensing of the export, import, transfer and transit of military equipment and technical assistance, Government Decree 50/2004 on the licensing of foreign trade in dual-use goods and technologies, and Government Decree 263/2004 on the control of nuclear related dual use items.

6. Detailed responses as to how Hungary's legislative framework relates to specific issues contained in SCR 1540 are set out below.

Executive action

7. The Inter-ministerial Committee on the Foreign Trade in Military Equipment (ICTME) sets policy relating to the licensing of international trade in military equipment and technical assistance. The Inter-ministerial Committee on Non-Proliferation (ICNP) is responsible for actions to be put into effect Hungary's commitments undertaken in non-proliferation treaties, regimes and various international initiatives. Among its other functions, the ICNP discusses and forms an opinion of non-proliferation related issues and provides guidance on priorities for the work of individual ministries.

8. The ICNP will oversee the implementation of UNSCR1540.

Enforcement action

9. Action to enforce export controls is co-ordinated and implemented by the following bodies and authorities:

   The Committee on Licensing of Foreign Trade in Military Equipment is a mid-level executive group. It is chaired by the head of the Hungarian Trade Licensing Office and includes representatives from a wide range of departments and agencies.

   The Inter-ministerial Committee on Non-proliferation is responsible for the review and co-ordination of the enforcement and practical implementation of Hungary's international non-proliferation commitments.

   The Proliferation Security Initiative Committee is an expert level group co-chaired by the Ministry of Foreign Affairs and the Hungarian Trade Licensing Office. It co-ordinates the implementation of the Proliferation Security Initiative at the national level and the participation of the Republic of Hungary in international exercises organised in the framework of the PSI.

10. The Hungarian Trade Licensing Office is the licensing authority in Hungary, which through two separate directorates issues licenses to trade in conventional military equipment and technology, as well as in dual use goods, including transit and brokering activities.

11. The Customs and Finance Guard of the Republic of Hungary have lead responsibility for preventing the import and export of unlicensed goods, investigating offences, and taking appropriate action.

Encouraging compliance

12. To complement the enforcement effort, the Hungarian Trade Licensing Office undertakes regular compliance visits to Hungarian producers, exporters and academic institutes to ensure that they understand the relevant export controls, are operating within the terms

of their licences and are aware of the risks of the transfer of results of research on nuclear, chemical, biological and dual-use technology.

In the European Union

13. The Republic of Hungary has worked to help establish effective policies within the European Union (EU) to prevent WMD proliferation, and will continue to do so. The Thessaloniki European Council in June 2003 agreed that preventing the proliferation of WMD should be a priority for the Union, both internally and in its relations with third countries, and agreed an Action Plan for addressing the issue. For example, in November 2003 the EU agreed a model non-proliferation clause to be included in all future EU-third country mixed agreements.

14. The European Council in December 2003 approved a Strategy for preventing the proliferation of WMD, which the EU is in the process of implementing.

International instruments

15. The Republic of Hungary is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BTWC).

16. Hungary has adopted an Additional Protocol to its IAEA Safeguards Agreement. The Additional Protocol entered into force in Hungary in 1999.

17. In addition, Hungary is a member of the following export control regimes: Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Zangger Committee, the Australia Group, and the Wassenaar Arrangement. The export control regimes play an important role in agreeing control lists and raising international standards of export controls. Hungary is also a signatory to the Hague Code of Conduct on Ballistic Missiles.

18. Since September 2001, the Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), the Australia Group, and the Wassenaar Arrangement have all formally adopted 'terrorism clauses' to deny terrorists access to the items they control. These export control regimes have followed up with increased exchanges to improve awareness of possible procurement attempts by terrorists.

19. Hungary lent its full support to the aims of the Proliferation Security Initiative (PSI) early on and has taken part in practical exercises organised within that framework. The PSI aims to help prevent trafficking in WMD and related material, by both state and non-state actors. The PSI Statement of Interdiction Principles, agreed at Paris on 4 September 2003, makes clear that all action will be consistent with national legislations and international legal frameworks.

20. Hungary encourages all states to align themselves with the purposes and instruments of these regimes and initiatives.

Technical Assistance to Other States

21. The Republic of Hungary recognises that some states may require assistance in implementing the provisions of this resolution within their territories. Hungary is willing to provide assistance as appropriate to the states lacking the legal and regulatory infrastructure, implementation experience needed to fulfil the provisions of UNSCR1540.

22. The Republic of Hungary has participated in outreach programmes of the international export control regimes. Hungarian experts have carried out outreach visits to several states. These visits have allowed to address issues connected with effective implementation of export controls, and provide advice on tackling the problems of transition in particular, and assistance where required.

Comments in relation to the specific issues contained in UNSCR 1540

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

The Government of Hungary is fully committed to this principle and does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Action taken:

- Obligations under NPT, CWC and BTWC have been incorporated in Hungarian legislation.

- The Hungarian licensing system includes provision to control imports too and is continuously reviewed.

- Penal Code paragraph 261/A establishes the offence of violation of laws and regulations that have been adopted in connection with international legal obligations of the Republic of Hungary. Preparation to violate is punishable by imprisonment up to three years; the factual violation is punishable up to five years and up to eight years if committed by a person holding public office. The maximum imprisonment can be ten years if the violation is connected to military goods or technology.

- Penal Code paragraph 287 establishes the offence of violation of trade control regulations. Any person knowingly involved in the supply or delivery of any internationally controlled goods or technologies with intent to evade any prohibition or restriction in

Government Decree 50/2004 or Government Decree 16/2004 shall be guilty of an offence and shall be liable to imprisonment up to fifteen years.

- According to the above paragraph it is also a violation if an end user processes the imported goods differently than as declared in the End User Certificate or in the International Import License.

Planned action:

- Hungary is considering what further action may be necessary.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Action taken:

- The legal framework for an IAEA compatible record keeping system of nuclear material was established in Hungary in 1971.
- Government Decree 39/1997 on the System of Accounting for and the International Control of Nuclear Materials and the Jurisdiction of Certain Authorities made modifications to further improve the efficiency of record keeping and ensure compliance with the IAEA Safeguards Agreement signed in 1972.
  Under Government Decree 39/1997 every organization possessing nuclear material shall keep operating records of all nuclear materials. All movements of nuclear material is recorded and produced to permit for accounting of these materials. An inventory of records takes place once a year.
- As of 1 May, 2004 Hungary as member of the EU is abided by Community regulation COM(2002)99 (previously 3227/76) on the application of safeguards.
- The Hungarian Atomic Energy Authority is responsible for obtaining and verifying records.
- In addition, a special legislative measure has been introduced on central and local record keeping of radioactive material in 2004, Decree 33/2004 issued by the Ministry of Interior. The decree is in conformity with Euratom Directive 2003/122 on controls of high activity radioactive sources.

Planned action:

- Hungary is considering what further action may be necessary.

(b) Develop and maintain appropriate effective physical protection measures;

Action taken:

- Hungary has established a national licensing system for the production, possession, and use of chemicals included in Schedule 1 of the CWC

- Hungary implements reporting requirements for all chemicals included in the Schedules of the CWC.

- Hungary implements the European Union Regulation 1334/2000 for the control of exports of dual-use items (including software and technology).

- Since 1 May 2004 Hungary has been party to the Treaty Establishing the European Atomic Energy Community (Euratom), chapter 7 of which concerns nuclear safeguards. These safeguards are implemented by the European Commission, which is tasked under the Treaty with satisfying itself that civil nuclear material in Hungary is not diverted from declared use.

- At the national level, the Hungarian Atomic Energy Authority, in co-operation with technical support institutes, carries out verification of all nuclear related material. Inspectors of the IAEA have regularly carried out verifications of national records since 1999. Since Hungary's accession to the Euratom in 2004, inspectors of the Community also have access to Hungarian data and facilities.

- Part of the Euratom requirement is that operating records must be kept and produced in order to permit for accounting of these materials. The detailed record keeping requirements are set out in a Regulation made by the Commission and approved by the Council (currently Commission Regulation (Euratom) No. 3227/76), which acts directly in Hungary.

- The Commission maintains an inspectorate (currently part of the Directorate General for Energy and Transport), which is responsible for obtaining and verifying these records. Hungary submits its nuclear material accountancy reports to this inspectorate and Commission inspectors are given access to all places, data and persons in Hungary to the extent necessary to verify these and hence be able to ensure that Hungary is compliant with the non-diversion provision.

- In 1998 Hungary signed and subsequently enacted (Act XC/1999) an Additional Protocol to the IAEA Safeguards Agreement. The Act establishes a national record system and data control for long-term plans, research and development, as well as for manufacturing and export-import activities related to nuclear fuel cycles, sites and other facilities. Hungary submits its declarations to the IAEA under the Additional Protocol based on the national record system.

- Hungary has launched a support program aimed to help strengthen the IAEA's safeguards system. Several measuring devices have already been developed for the detection of fissile content of nuclear material as a result of this programme.

Planned action:

- Hungary is considering what further action may be necessary.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken:

- European Community Customs Code (EC2913/92) article 14 empowers Customs to require information in relation to goods imported or exported.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 authorizes Customs to stop and search vehicles/vessels on suspicion of carrying prohibited goods.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 and European Community Customs Code (EC2913/92) article 68, b) section empower Customs to examine goods and take samples for the purpose of verifying customs declaration.

- Act on Hungarian Customs and Finance Guard 2004/XIX. paragraph 5 stipulates Customs powers of arrest.

- Under Penal Code paragraph 287 export/import, attempted export/import, including transit of controlled items without a license issued by the relevant authority is a criminal offence and therefore subject to imprisonment of maximum 15 years.

- Hungarian Customs and Finance Guard – with the assistance of EU's PHARE Program and the Ministry of Environment and Water - has developed a programme for the detection of dangerous materials. As a result of this programme, all border crossing

points have been equipped with stationary monitoring systems, personal radiation monitors and portable survey meters. In addition, 39 stationary monitoring systems, i.e. radiation detector gates, covering all international border crossings have been installed to control the flow of international freight traffic. (This programme provides the capability to routinely screen all forms of traffic at the Hungarian points of entry and departure for the illicit movement of radioactive materials.)

- Government Decree 17/1996 sets out co-ordinating procedures for authorities involved in detection, confiscation and verification of illegal possession of and/or trafficking in nuclear and radioactive materials.

Planned action:

- In the light of recent developments in the Hungarian export control system, the Hungarian Customs and Finance Guard analyses its internal regulations and mechanisms to further enhance the effectiveness of the controls of foreign trade in arms and dual-use items.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Action taken:

- Government Decree 263/2004 on the control of nuclear and nuclear related dual use items regulates licensing procedures for the export, import and transit of nuclear material and nuclear dual use items. All applications are registered and assessed on a case-by-case basis. Licences for these types of goods are issued with the prior consent of the Hungarian Atomic Energy Authority.

- EC Dual-Use Items Regulation (EC) 1334/2000 is applied.

- Government Decree 50/2004 authorises the Hungarian Trade Licensing Office to implement Regulation (EC) 1334/2000 of the European Community, which establishes a Community regime for the control of exports of dual-use items and technology. The Government Decree regulates the import of dual-use items and technology, too, from outside the territory of the European Community to the territory of the Republic of Hungary.

- Act XIX/2004 on Hungarian Customs and Finance Guard. (Various provisions quoted under relevant point.)
- Community Customs Code (EC Regulation 2913/92) is in effect.
- Government Decree 16/2004 on the licensing of the export, import, transfer and transit of military equipment and technical assistance entered into force on Hungary's accession day to the European Union, i.e. on the 1st of May 2004. The new legislation does not change the substance of the Hungarian licensing system. It remains of individual character, which means that „open" or „general" licences do not exist in the Hungarian export control system of conventional arms. The 3-tier licensing system is a very strict procedural sequence, where the listed stages are non-interchangeable.

- Under Government Decree 16/2004 a licence is required for arms brokering activities to avoid circumvention of UN, EU or OSCE embargoes or sanctions on arms exports, as well as of the Criteria set out in the European Union's Code of Conduct on Arms Exports.

- Government Decree 16/2004. (II.6.) takes into account the recommendations and Best Practice Guidelines of the relevant international organizations and the Common Position 2003/468/CFSP on the control of brokering adopted by the Council of the European Union on 23 June 2003.

- Penal Code paragraph 261/A establishes the offence of violation of laws and regulations that have been adopted in connection with international legal obligations of the Republic of Hungary. Preparation to violate is punishable by imprisonment up to three years; the factual violation is punishable up to five years and up to eight years if committed by a person holding public office. The maximum imprisonment can be ten years if the violation is connected to military goods or technology.

- Penal Code paragraph 287 establishes the offence of violation of trade control regulations. Any person knowingly involved in the supply or delivery of any internationally controlled goods and technologies with intent to evade any prohibition or restriction in Government Decree 50/2004 or Government Decree 16/2004 shall be guilty of an offence and shall be liable to imprisonment up to fifteen years.

- According to the above paragraph it is also a violation if an end user processes the imported goods differently than as declared in the End User Certificate or in the International Import License.

- <u>Planned action:</u>

- None at present, since both Government Decrees are new and have recently entered into force. Nevertheless all actors involved in licensing procedures continue to analyse their internal mechanisms and the functioning of the entire system to identify whether any additional measures may be required.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Hungary is a state party to the Nuclear Non-Proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). Hungary is also an active member of the IAEA and OPCW, and is active in the continuing work by States Parties to strengthen implementation of the BTWC.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Action taken:

- Hungary is a strong supporter of effective multilateral export control regimes, and is working to raise international standards. Hungary is an active member of the Nuclear Suppliers' Group, the Australia Group, the Missile Technology Control Regime, the Zangger Committee, and the Wassenaar Arrangement. Control lists of the above regimes are incorporated in the relevant national regulations. Hungary maintains and regularly updates its national export control lists.

Planned action:

- Hungary continues to work to ensure that the multilateral export control regimes respond in a timely fashion to developments.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking

the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Hungary recognises that some States may require assistance in implementing the provisions of this resolution within their territories.

Hungary is ready to share its experiences of developing and maintaining effective controls over nuclear, biological, chemical as well as dual use goods and technologies.

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken:

- Participation in the implementation of EU Common Position, November 2003, on the universalisation of the main multilateral non-proliferation agreements (CWC, BTWC, NPT)
- Support to consider the Additional Protocol as a condition of supply: EU lobbying for universalisation of CSA and Additional Protocol
- Support to include the Model non-proliferation clause in EU-third country mixed agreements

Planned action:

- Hungary will continue to promote the universal adoption and full implementation, and strengthening of multilateral treaties whose aim is to prevent the proliferation of nuclear, biological or chemical weapons.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Action taken:

- Law-Decree 12/1970 on Hungary's ratification of the NPT.
- Law-Decree 9/1972 on the conclusion of a safeguards agreement between Hungary and the IAEA.
- Act XC/1999 on the conclusion of an Additional Protocol (signed in 1998) for the application of the safeguards agreement between Hungary and the IAEA.
- Law-Decree 11/1975 on Hungary's ratification of the BTWC
- Act 104/1997 on Hungary's ratification of the CWC
- Government Decree 50/2004 on Licensing of Foreign Trade in Dual-Use Goods and Technologies.
- Government Decree 263/2004 on the control of nuclear related dual use items.

Planned action:

- The Government of Hungary believes that it is already in full compliance with its commitments under the key multilateral non-proliferation treaties. No further action is currently foreseen.

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(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Action taken:

- Hungary continues to provide full support for the aims and activities of the IAEA, both as a state party and currently also as member of the Board of Governors.

- Hungary launched a Support Programme aimed to strengthen the IAEA's safeguards system.

- Hungary also took active part in the IAEA's 93+2 programme to enhance the effectiveness and cost-efficiency of the safeguards system.

- Hungary continues to provide full support for the aims and activities of the OPCW, both as a state party and in special periods when a member of the Executive Council (e.g. between 2001-03).

- Hungary is also fully committed to strengthening the BWTC. Hungary actively participated in the development of a "follow up process" to promote negotiations on the advancement of a verification process for the convention.

Planned action:

- None at present.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Action taken:

- Close working relationship with industry, established through government/industry committees, awareness raising seminars and workshops.

- The Government of Hungary provides advice and assistance to industry and academia in meeting their obligations stemming from Hungary's international treaty obligations.

- Information is regularly disseminated through government websites, publications and leaflets.

- The Government encourages and supports to include non-proliferation issues in curricula.

- Hungary participates in the implementation of the EU WMD Strategy the overall aim of which is to promote the fight against proliferation of weapons of mass destruction and their means of delivery.

Planned action:

- None at present.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Hungary continues to promote dialogue and co-operation on non-proliferation in a range of fora so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Action taken:

- Hungary maintains regular and direct contact with other states and their respective authorities and works together with them to achieve the aims of UNSCR 1540.

- Hungary is committed to the aims of the Proliferation Security Initiative (PSI) and actively participates in co-operative actions and exercises organised in that framework.

Planned action:

- Hungary is still considering what further action may be necessary